

AGENDA ITEM SUMMARY

Staff Contact Person: K. Marlene Conaway

AGENDA ITEM #_____

**RE HEARING OF
LAND USE DISTRICT (ZONING)
MAP AMENDMENT REQUEST
OF
GEIGER KEY MARINA INC.
GEIGER KEY, MONROE COUNTY, FLORIDA**

**AS AGREED TO IN THE SETTLEMENT
AGREEMENT OF CASE NO: CAK-02-561**

BOARD OF COUNTY COMMISSIONERS KEY WEST

APRIL 20, 2005

BOCC Ordinance Denial

ORDINANCE NO. 2005

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS **DENYING THE REQUEST BY PBP MARINA INC. TO AMEND THE LAND USE DISTRICT (ZONING) MAP** FROM SPARSELY SETTLED RESIDENTIAL DISTRICT (SS) TO RECREATIONAL VEHICLE (RV) FOR THE PROPERTY DESCRIBED AS BOCA CHICA PART GOVERNMENT LOT 6, SECTION 26, TOWNSHIP 67 SOUTH, AND RANGE 26 EAST, ALSO KNOWN AS GEIGER KEY MARINA AND RV PARK ON GEIGER KEY, MONROE COUNTY, FLORIDA, AT APPROXIMATELY MILE MARKER 10.7.

WHEREAS, the Monroe County Board of County Commissioners, during a regular meeting held on April 17, 2002, conducted a review and consideration of the request filed by PBP Marina, Inc. to amend the zoning map from Sparsely Settled Residential District (SS) to Recreational Vehicle (RV) land use district for the Geiger Key Marina. The subject property is located at 5 Geiger Road, in Section 26, Township 67 South, and Range 26 East, Monroe County, Florida. The Real Estate identification number is 00122160.000000; and

WHEREAS, after consideration of the staff report, Planning Commission recommendation and public testimony at the hearing the Board voted to deny PBP's zoning change request; and

WHEREAS the denial was based on the following: the proposed map amendment does not meet the requirements outlined in Section 9.5-511 of the LDRs, the zoning change will negatively impact and alter the character of the surrounding community, and the property is in the existing adopted AICUZ; and,

WHEREAS, PBP Marina sued the County over the Board of County Commissioners April 17, 2002 denial of PBP's request to change the current zoning designation from SS to RV; and

WHEREAS, the Board of County Commissioners voted to rehear the PBP's application for a zoning change on January 19, 2005, as a result of a letter from the Commanding Officer of the Naval Air Station Key West indicating that their concerns were resolved over the zoning change since PBP has agreed to place certain restrictions on the use and development of the property in question; and

WHEREAS, a Settlement Agreement was signed between the County and PBP Marina agreeing to the rehearing of the application on April 20, 2005; the Case (NO: CAK-02-561) will be held in abeyance until completion of the public hearing on the zoning change request and a decision on the requested zoning change; and

WHEREAS, the Settlement Agreement simply affords an opportunity for a rehearing and is not a presumption of the outcome of the hearing; and

WHEREAS, at its December 6, 2001 meeting in Marathon, the Development Review Committee reviewed the application and recommended approval of the rezoning as indicated in the Resolution D27-01; and

WHEREAS, based on the recommendation of the Development Review Committee, the staff recommended approval of the application to the Planning Commission; and

WHEREAS, the Planning Commission held a public hearing in Marathon on January 9, 2002. Based on the facts presented at the meeting, the Planning Commission recommended denial of the rezoning as indicated in the Resolution P02-02; and

WHEREAS, after further review of the application and consideration of facts, the staff recommended denial as indicated in the Staff Report dated March 18, 2002; and

WHEREAS, the Board of County Commissioners further reviewed the application and made the following **Finding of Facts**:

1. **Section 9.5-511(d)(5)b** of the Monroe County Code (MCC) allows the Board of County Commissioners to consider adopting an ordinance to enact map changes under six listed conditions.
2. This map amendment recognizes a need for comprehensiveness in planning [Section 9.5-511(d)(5) b.(v)]. The application was initiated by the applicant's agent in order to rezone the subject property to a land use district that represents the historic use of the property and corresponds with the Future Land Use Map designation.
3. Pre-1986 zoning of the subject property was **Mobile Home Residential District (RU-5P)**. The purpose of RU-5P zone was a district for mobile homes in approved parks where the lots were not individually owned, but occupied as single family dwellings.
4. During the 1986 Comprehensive Plan process, the land use (zoning) district of the subject property was changed to **Sparsely Settled Residential District (SS)**.
5. **Section 9.5-209** of MCC states that the purpose of the Sparsely Settled Residential District is to establish areas of low-density residential development where the predominant character is native or open space lands. RV parks are non-conforming uses in this land use district.
6. The Future Land Use Map (FLUM) of the Monroe County Year 2010 Comprehensive Plan (Comp Plan) shows that areas around the Geiger Key Marina that were zoned SS, received a FLUM designation of **Residential Low (RL)**, consistent with their zoning district. Geiger Key Marina has a **Mixed Use/Commercial (MC)** FLUM designation.
7. Based on **Policy 101.4.5** of the Comp Plan the principal purpose of the Mixed Use/Commercial land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail and office uses may be permitted at intensities which are

consistent with the community character and the natural environment. This land use category is also intended to allow the establishment of mixed-use development patterns, where appropriate.

8. The Mixed Use/Commercial (MC) future land use category corresponds with the requested Recreational Vehicle (RV) land use designation, but not with the Sparsely Settled Residential District (SS).
9. **Section 9.5-215** of MCC states that the purpose of the Recreational Vehicle (RV) land use district is to establish areas suitable for the development of destination resorts or recreational vehicles. This district contemplates developments that provide on-site recreational, commercial, and resort facilities.
10. Based on the documented evidence and the site plan submitted by the applicant, there are 36 RV spaces on this property as of November 15, 2001.
11. **Objective 101.11** of the Comp Plan states that Monroe County shall ensure that at the time a development permit is issued, adequate public facilities are available to serve the development at the adopted level of service standards concurrent with the impacts of such development.
12. The **2001 Public Facilities Capacity Assessment Report** and the listed programs on stormwater and wastewater indicate that there are no significant concerns regarding impacts on public facilities.
13. **Goal 102** of the Comp Plan states that Monroe County shall direct future growth to lands which are intrinsically most suitable for development and shall encourage conservation and protection of environmentally sensitive lands. The proposed map amendment proposes no additional density or intensity on the site and no expansion of the development into the environmentally sensitive lands.
14. The site is located under the flight path of the nearby Boca Chica Naval Air Station. Based on **Section 9.5-260(a)(2)a**, privately owned properties adjacent to the Naval Air Station, Boca Chica, also known as NAS Key West, shall be developed in accordance with the map prepared by the U.S. Navy known as Figure A or as updated by the U.S. Navy. This map was prepared in conjunction with the United States Navy's Air Installation Compatible Use Zone Study (AICUZ). Geiger Key Marina is within the **C2** zone of the adopted map. Based on **Section 9.5-260(a)(2)a3v**, the C2 zone represents accident potentials and modest noise from the airplane flying in and out of the Naval Air Station (NAS). Under the AICUZ C2 zone, Geiger Key Marina shall not be permitted to be developed or redeveloped for new residential (transient or permanent), commercial (resort related), institutional (educational, medical related), and recreational (sports arena, concert hall) uses.
15. Based on a letter from the Commander of the Naval Air Facility in Key West of December 14, 2004, the Navy will withdraw their opposition, as detailed in their letter of December 14, 2001, to the zoning change, if PBP marina agrees to sign and record a *Declaration of Restrictive Covenant Regarding Use of Land* which would limit the future use of the property, so it would be compatible with operations of the Naval Air Station Key West.

16. Based on **Chapter 380.031** of the Florida Statutes, the definition of "Development Permit" includes zoning permit and rezoning. Therefore, a zoning change should support and implement the Land Development Regulations.
17. Based on **Chapters 163.3201** and **163.3201** of the Florida Statutes, Land Development Regulations shall be in compliance with and implement the adopted local Comprehensive Plan.
18. Based on **Chapter 163.3213 2 (b)** "Land Development Regulation" means an ordinance enacted by a local governing body for the regulation of any aspect of development, including a subdivision, building construction, landscaping, tree protection, or sign regulation or any other regulation concerning the development of land. This term shall include a general zoning code, **but shall not include a zoning map, an action which results in zoning or rezoning of land....**
19. Based on **Chapter 163.3177(6)(a)** of the Florida Statutes, Future Land Use Map illustrate the proposed distribution, location, and extent of various categories of land use in a future land use plan. The future land use plan is just one of the several elements of comprehensive plan. It designates proposed future **general** distribution, location, and extent of the uses of land for different type of uses.
20. **Section 9.5-511** prohibits any map amendments that would negatively impact community character.
21. The community character of the neighborhood is low density residential. Geiger Key Marina is the only mixed use/commercial facility in and around the neighborhood; and

WHEREAS, the Board of County Commissioners made the following **Conclusions of Law**:

1. The Future Land Use Map is just one of the elements of the Year 2010 Comprehensive Plan which shows only the proposed future **general** distribution, location, and extent of the uses of land for different type of uses.
2. Rezoning of a property on the basis of corresponding with the Future Land Use Map of the Comprehensive Plan is not warranted.
3. The Monroe County Planning Commission determination of granting a development permit (including rezoning) is based on the consistency of the proposal with applicable Land Development Regulations and the overall intent of the Comp Plan.
4. The applicant has not sufficiently proven that the requested map amendment would be consistent with the overall intent of the Year 2010 Comprehensive Plan.
5. The proposed map amendment does not meet the requirements outlined in Section 9.5-511 of the Land Development Regulations and will negatively impact and alter the character of the surrounding community.

6. The site is located in the C2 zone of the adopted AICUZ map which represents accident potentials and modest noise from the air traffic of the Naval Air Station in Boca Chica. Therefore, granting the requested rezoning could "potentially" put public's health and safety at risk. **NOW THEREFORE,**

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT

Section 1. The Board specifically adopts the findings of fact and conclusions of law stated above.

Section 2. The previously described property, shall not be rezoned to Recreational Vehicle District (RV) and maintain its current zoning designation of Sparsely Settled (SS) as shown on the attached map, which is hereby incorporated by reference and attached as Exhibit 1.

Section 3. The Board directs the Staff to initiate the process to determine an appropriate land use designation for the property based on the Findings of Fact and Conclusions of Law presented.

Section 4. If any section, subsection, sentence, clause, item, change or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. This ordinance shall be filed in the Office of the Secretary of the State of Florida.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the _____ day of _____, A.D., 2005.

Mayor Dixie Spehar _____
Mayor Pro Tem Charles "Sonny" McCoy _____
Commissioner Murray E. Nelson _____
Commissioner George Neugent _____
Commissioner David P. Rice _____

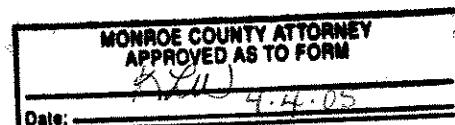
BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY _____
Mayor/Chairperson

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

Deputy clerk



BOCC Ordinance Approval

ORDINANCE NO:

A RESOLUTION BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS **APPROVING** THE REQUEST BY PBP MARINA INC. TO AMEND THE LAND USE DISTRICT (ZONING) MAP FROM SPARSELY SETTELED (SS) TO RECREATIONAL VEHICLE (RV) FOR THE PROPERTY DESCRIBED AS PART OF GOVERNMENT LOT 6, SECTION 26, TOWNSHIP 67 SOUTH, AND RANGE 26 EAST, ALSO KNOWN AS 5 GEIGER ROAD, GEIGER KEY, MILE MARKER 10.7, MONROE COUNTY, FLORIDA.

WHEREAS, the Monroe County Board of County Commissioners, during a regular meeting held on April 17, 2002, conducted a review and consideration of the request filed by PBP Marina, Inc. to amend the zoning map from Sparsely Settled Residential District (SS) to Recreational Vehicle (RV) land use district for the Geiger Key Marina. The subject property is located at 5 Geiger Road, in Section 26, Township 67 South, and Range 26 East, Monroe County, Florida. The Real Estate identification number is 00122160.000000; and

WHEREAS, after consideration of the staff report, Planning Commission recommendation and public testimony at the hearing the Board voted to deny PBP's zoning change request; and

WHEREAS the denial was based on the following: the proposed map amendment does not meet the requirements outlined in Section 9.5-511 of the LDRs, the zoning change will negatively impact and alter the character of the surrounding community, and the property is in the existing adopted AICUZ; and,

WHEREAS, PBP Marina sued the County over the Board of County Commissioners April 17, 2002 denial of PBP's request to change the current zoning designation from SS to RV; and

WHEREAS, the Board of County Commissioners voted to rehear the PBP's application for a zoning change on January 19, 2005, as a result of a letter from the Commanding Officer of the Naval Air Station Key West indicating that their concerns were resolved over the zoning change since PBP has agreed to place certain restrictions on the use and development of the property in question; and

WHEREAS, a Settlement Agreement was signed between the County and PBP Marina agreeing to the rehearing of the application on April 20, 2005; the Case (NO: CAK-02-561) will be held in abeyance until completion of the public hearing on the zoning change request and a decision on the requested zoning change; and

WHEREAS, the Settlement Agreement simply affords an opportunity for a rehearing and is not a presumption of the outcome of the hearing; and

WHEREAS, at its December 6, 2001 meeting in Marathon, the Development Review Committee reviewed the application and recommended approval of the rezoning as indicated in the Resolution D27-01; and

WHEREAS, based on the recommendation of the Development Review Committee, the staff recommended approval of the application to the Planning Commission; and

WHEREAS, the Planning Commission held a public hearing in Marathon on January 9, 2002. Based on the facts presented at the meeting, the Planning Commission recommended denial of the rezoning as indicated in the Resolution P02-02; and

WHEREAS, after further review of the application and consideration of facts, the staff recommended denial as indicated in the Staff Report dated March 18, 2002; and

WHEREAS, the Board of County Commissioners made the following **Findings of Fact**:

1. **Section 9.5-511(d)(5) b** of the Monroe County Land Development Regulations allows the Board of County Commissioners to consider adopting an ordinance to enact map changes under six listed conditions.
2. This map amendment recognizes a need for comprehensiveness in planning (Section 9.5-511(d)(5)b.(v) of the Monroe County Code). The application was initiated by the applicant's agent in order to rezone the subject property to a land use district that represents the historic use of the property and corresponds with the Future Land Use Map designation.
3. Pre-1986 zoning of the subject properties was **Mobile Home Residential District (RU-5P)**.
4. During the 1986 Comprehensive Plan process, the land use (zoning) district of the subject properties was changed to **Sparsely Settled Residential District (SS)**.
5. **Section 9.5-209** of the Monroe County Code states that the purpose of the Sparsely Settled district is to establish areas of low-density residential development where the predominant character is native or open space land. This designation overlooked the historic use of the property as a marina and RV park.
6. The Future Land Use Map of the Monroe County Year 2010 Comprehensive shows that areas around the Geiger Key Marina that were zoned Sparsely Settled Residential District, received a Future Land Use Map designation of **Residential Low (RL)**, consistent with their land use. However, the subject property received **Mixed Use/Commercial (MC)** designation.
7. Based on Policy 101.4.5 of the Year 2010 Comprehensive Plan the principal purpose of the Mixed Use/Commercial land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail and office may be permitted at intensities which are consistent with the community character and the natural environment. This land use category is also intended to allow for the establishment of mixed-use development patterns, where appropriate.

8. The Mixed Use/Commercial (MC) Future Land Use category corresponds with the Recreational Vehicle (RV) land use district.
9. **Section 9.5-215** states that the purpose of the Recreational Vehicle (RV) land use district is to establish areas suitable for the development of destination resorts or recreational vehicles. This district contemplates developments that provide on-site recreational, commercial, and resort facilities.
10. **Section 9.5-244** indicates that the Recreational Vehicle (RV) land use district permits recreational vehicles as-of-right.
11. **Section 9.5-511** prohibits any map amendments that would negatively impact community character.
12. **Objective 101.11** states that Monroe County shall ensure that at the time a development permit is issued, adequate public facilities are available to serve the development at the adopted level of service standards concurrent with the impacts of such development.
13. The **2001 Public Facilities Capacity Assessment Report** and the listed programs on stormwater and wastewater indicates that there are no significant concerns regarding impacts on public facilities.
14. **Goal 102** of the Monroe County Year 2010 Plan states that Monroe County shall direct future growth to lands which are intrinsically most suitable for development and shall encourage conservation and protection of environmentally sensitive lands.
15. The proposed map amendment supports **Goal 102** as it proposes no additional density or intensity on the site. There will be no additional impact on environmentally sensitive lands.
16. The site is located under the flight path of the nearby Boca Chica Naval Air Station. Based on **Section 9.5-260(a)(2)a**, privately owned properties adjacent to the Naval Air Station, Boca Chica, also known as NAS Key West, shall be developed in accordance with the map prepared by the U.S. Navy known as Figure A or as updated by the U.S. Navy. This map was prepared in conjunction with the United States Navy's Air Installation Compatible Use Zone Study (AICUZ). Geiger Key Marina is within the **C2** zone of the adopted map. Based on **Section 9.5-260(a)(2)a3v**, the C2 zone represents accident potentials and modest noise from the airplane flying in and out of the Naval Air Station (NAS). Under the AICUZ C2 zone, Geiger Key Marina shall not be permitted to be developed or redeveloped for new residential (transient or permanent), commercial (resort related), institutional (educational, medical related), and recreational (sports arena, concert hall) uses.
17. Based on a letter from the Commander of the Naval Air Facility in Key West of December 14, 2004, the Navy will withdraw their opposition, as detailed in their letter of December 14, 2001, to the zoning change, if PBP marina agrees to sign and record a *Declaration of Restrictive*

Covenant Regarding Use of Land which would limit the future use of the property, so it would be compatible with operations of the Naval Air Station Key West.

18. Based on the documented evidences and the Site Plan submitted by the applicant, there are 36 RV spaces on this property as of November 15, 2001; and

WHEREAS, the Board of County Commissioners made the following **Conclusions of Law**:

1. The proposed map amendment meets the requirements outlined in Section 9.5-511(d)(5)b.(v) and Section 9.5-215 of the Monroe County Land Development Regulations and will not negatively impact or alter the character of the subject property or the neighborhood.
2. The proposed map amendment supports Objective 101.11 of the Monroe County Year 2010 Comprehensive Plan based on the findings of the 2001 Public Facilities Capacity Assessment Report and the listed programs on stormwater and wastewater. There are no significant concerns regarding impacts on public facilities.
3. The proposed map amendment supports **Objective 101.1** of the Monroe County Year 2010 Plan based on the findings of the 2004 Public Facilities Capacity Assessment Report. There are no significant concerns regarding impacts on public facilities.
4. There are no additional impacts on environmentally sensitive lands as a result of the proposed map amendment.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT

Section 1. The Board specifically adopts the findings of fact and conclusions of law stated above.

Section 2. The previously described property which is zoned Sparsely Settled (SS) shall be zoned Recreational Vehicle District (RV) as shown on the attached map, which is hereby incorporated by reference and attached as Exhibit 1.

Section 3. If any section, subsection, sentence, clause, item, change or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. This ordinance shall be filed in the Office of the Secretary of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the _____ day of _____, A.D., 2005.

Mayor Dixie Spehar _____
Mayor Pro Tem Charles "Sonny" McCoy _____
Commissioner Murray E. Nelson _____
Commissioner George Neugent _____
Commissioner David P. Rice _____

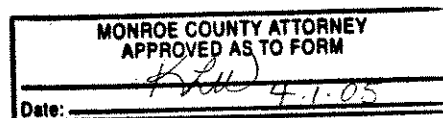
BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

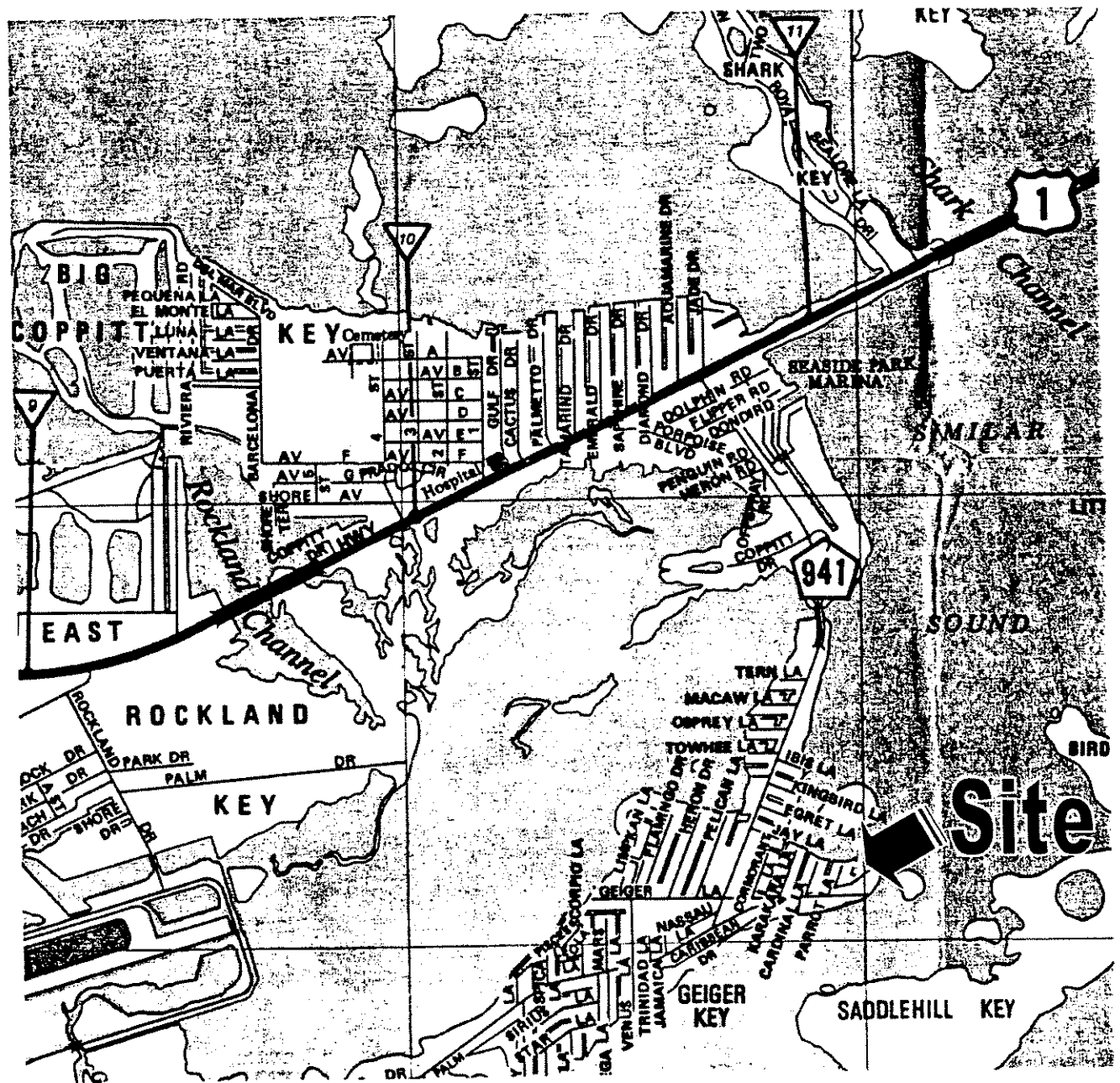
BY _____
MAYOR/CHAIRPERSON

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

DEPUTY CLERK





Proposed Land Use District Map Amendment: Street Map

Key: Geiger Key

Mile Marker : 10.7±

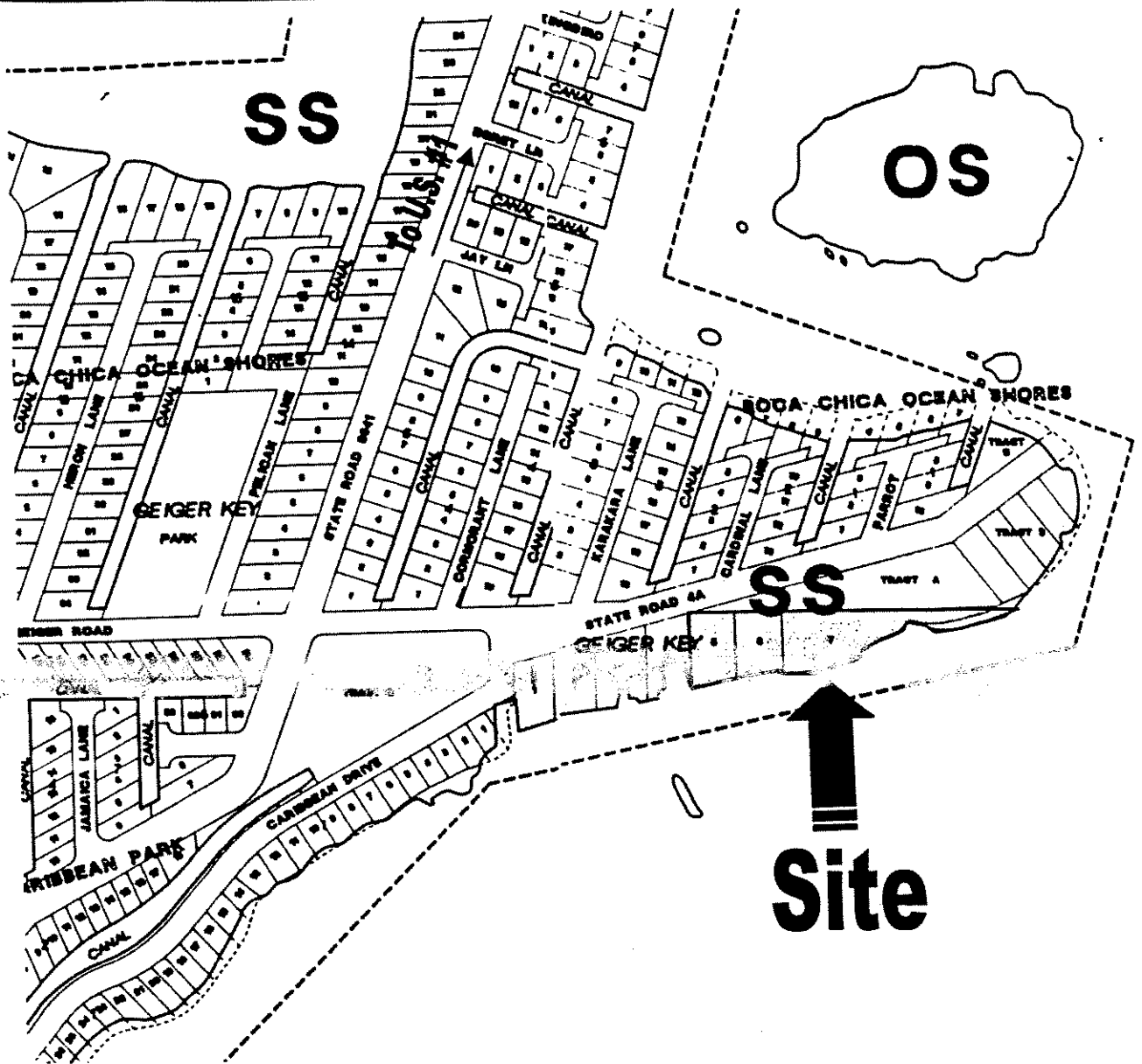
Proposal: Change Land Use District from Sparsely Settled to Recreational Vehicle

Property description: Boca Chica Part Government Lot 6 in Sec. 26, Twp. 67 S. Rge. 26 E. Monroe County, Florida

Land Use District Map #: 540

Map Amendment # 01-





The Monroe County Land Use Map is proposed to be amended as indicated above and briefly described as:

Change Land Use District from Sparsely Settled to Recreational Vehicle for Boca Chica Part Government Lot 6 in Sec. 26, Twp. 67 S. Rge. 26 E. RE # 122170, Monroe County, Florida, at approximate mile marker 10.7

Date:

Amendment #: 01-

Sheet #: 540



Staff Report And Recommendation



MEMORANDUM

TO: Board of County Commissioners
FROM: K. Marlene Conaway, Director of Planning
RE: Geiger Key Marina Zoning Map Amendment
Date: April 1, 2005

MEETING DATE: April 20, 2005

EXISTING FUTURE LAND USE DESIGNATION: Mixed Use Commercial (MC)

PROPOSED FUTURE LAND USE DESIGNATION: Mixed Use Commercial (MC)

EXISTING ZONING DESIGNATION: Sparsely Settled (SS)

PROPOSED ZONING DESIGNATIONS: Recreation Vehicle (RV)

PROPERTY OWNER: PBP Marina Inc.

AGENT: Ralf G. Brookes, Esq.

PROPERTY INFORMATION

Key: Geiger Key

Size: 81,840 Square Feet (1.87 Acres)

Mile Marker: MM 11 of U.S. Highway No. 1

Background

On April 17, 2002 the Board of County Commissioners denied the zoning change request of PBP Marina Inc. PBP sued the County over the decision and the Board of County Commissioners voted on January 19, 2005 to rehear PBP's application for a zoning change as part of the Settlement Agreement between the parties (attached). The Settlement Agreement is to re-hear the application and is not a presumption of the outcome of the hearing.

In the previous action the BOCC denied the application; staff and the Planning Commission had also recommended denial. Reasons for the denial included that the proposed map amendment does not meet the requirements outlined in Section 9.5-511 of the LDRs, will negatively impact and alter the character of the surrounding community, and the property is in the existing adopted AICUZ.

In a letter dated December 14, 2001, in opposition to the zoning change the Commander of the Naval Air Facility in Key West stated that rezoning the Geiger Key Marina to RV will create a potential for upgrading to hotel or resort. This potential according to the letter, is considered "New Development" and not in keeping with the County Land Development Regulations.

The Commanding Officer of the Naval Air Station Key West wrote a second letter on December 14, 2004 (attached), indicating that the Navy will withdraw their opposition to the zoning change, if PBP Marina agrees to sign and record a *Declaration of Restrictive Covenant Regarding Use of Land* which would limit the future use of the property, so it would be compatible with operations of the Naval Air Station Key West. The letter stated that the NAS Key West has no objection to the present use and operation of the Marina, nor does it object to the proposed rezoning so long as there is no increase of the existing use.

Staff is concerned that approval of the rezoning request based on a *Declaration of Restrictive Covenant* is "Contract Zoning". The County Attorney's office is reviewing the agreement and will give the Board an opinion of whether or not acceptance of this limitation on possible uses of the rezoned property is legal under Florida law.

Location Detail & Brief Description:

The Geiger Key Marina property is located in Boca Chica on State Road 4-A on Geiger Key. The property is approximately 4 miles from US HWY 1, which lies to the north and is situated between the Atlantic Ocean to the south and State Road 4-A to the north. State Road S-941 which leads neighborhood traffic from US HWY 1 intersects Geiger Road. The subject property is located at 5 Geiger Road, and is described as Boca Chica Part Government Lot 6, Section 26, Township 67 South, and Range 26 East. The Real Estate number is 00122160.000000.

Figure 1: Geiger Key Marina

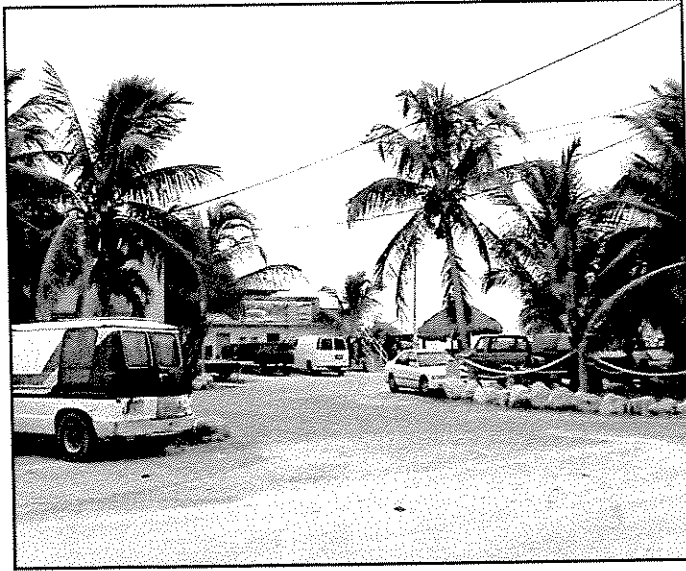


Existing Use:

Geiger Key marina began as a marina and boat dock in 1969. In 1976 recreational vehicle (RV) spaces and additional commercial area including laundry and apartments were added. The existing development at Geiger Key Marina consists of a restaurant and a bar of approximately 2000 sq. ft. The site contains 36 RV spaces with a store. There are three apartments, one over the two-story restaurant and the others over the

laundry buildings. The marina consists of a boat ramp and approximately 737 linear feet of seawall. The subject property is currently operating as a marina/recreational vehicle park. The rezoning will allow the existing use to continue. The rezoning will make the parcel conforming which creates a potential for future development and redevelopment of the site.

Figure 2: View inside the Geiger Key Marina



Existing Habitat:

The habitat of the subject properties is classified as disturbed with exotic landscape plants. The site contains a dredged boat basin and shoreline which are defined as altered for setback purposes. The lots are served by all public utilities and are not considered habitat for any listed animal species or located within an acquisition area for preservation. The lots fall predominately within the AE 10 flood zone except for a narrow strip of VE 11 near the boat basin per FIRM panel 1734, effective, date March 3, 1997.

Land Use and Habitat on the 1985 Existing Conditions Aerials:

Sheet 36 of the 1985 Existing Conditions Aerials show the habitat code to be 740, which indicates that the site is disturbed.

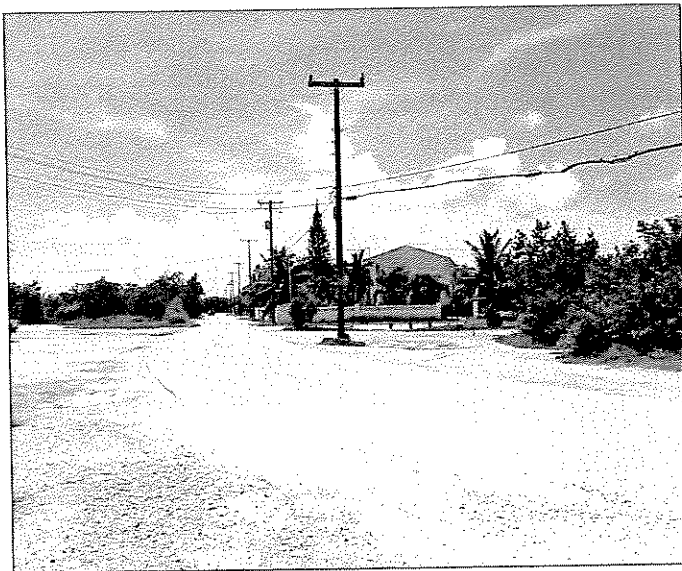


Figure 3. State Road 4-A

Neighboring Land Uses and Character:

Geiger Key Marina is located within an area that is zoned and subdivided primarily for residential use. Most of the area to the west, north, and northeast of the site is zoned Sparsely Settled (SS) the allocated density for the SS zone is 0.5 units/acre. Therefore, a minim of two acres lot is needed to build a house. Also to the west is Tamarak Park and Geiger Mobile Home Subdivision in an area zoned Urban Residential and Mobile Home (URM). The rest of the Geiger Key is military land that is owned by Boca Chica Naval Air Station.

ZONING AND LAND USE HISTORY

Pre-1986 Zoning:

In 1965 Geiger Key Marina was zoned BU (Neighborhood Retail Business District). This zoning designation remained until May 1973 when the first legal zoning ordinance (Ordinance # 1-1973) came into effect which designated Geiger Key Marina as **Mobile Home Park Residential District (RU-5P)**. The purpose of RU-5P zone was a district for mobile homes in approved parks where the lots are not individually owned but are occupied as single family dwelling. The intent was to create an environment of residential character, designed to enhance living conditions and permitting only those uses, activities, and services which were compatible with the residential environment.

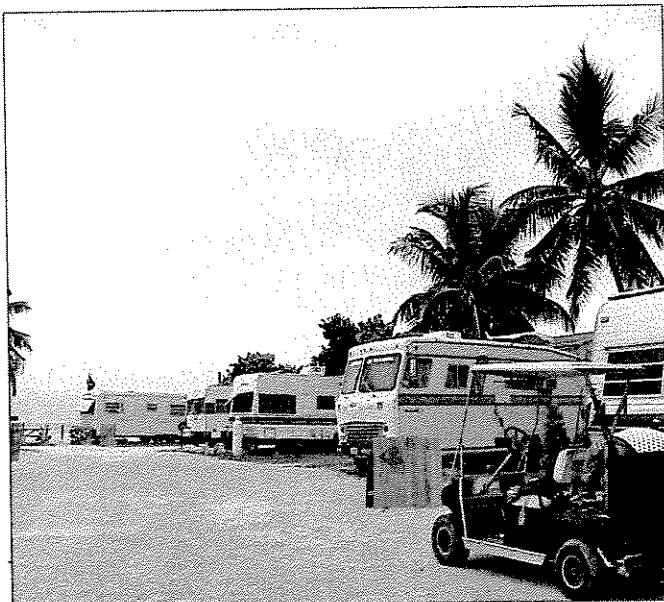
Principal uses that were permitted in RU-5P districts included:

- Parking and occupancy of mobile homes;
- Service buildings, including bath, toilet and laundry facilities for park occupants;
- Lounge, recreational buildings, areas, and facilities;
- Office and living accommodations for park manager and the immediate family;
- Storage buildings; and
- The sales of new and used mobile homes under certain conditions.

Operating as a marina, Geiger Key Marina was a nonconforming use under this land use district. The 1973 Ordinance designated the RU-6 zone as Recreational Vehicle Park District (RV), where parks were intended to provide only short-term occupancy by tourists. Marinas were permitted as accessory uses.

In 1976, Geiger Key Marina added RV spaces and additional commercial area, including laundry and apartments. Therefore, expanded the nonconformity by operating as an RV park.

Figure 4: Looking inside the RV Park



Geiger Key Marina. 00122160.000000

Considerations During the 1986 Comprehensive Plan Process:

In September 1986, when the Comprehensive Plan came into effect, Geiger Key Marina as well as the surrounding areas were rezoned to Sparsely Settled District (SS). Although marinas are permitted as major conditional uses, RV parks are nonconforming uses in SS district.

Considerations During the 2010 Comprehensive Plan Process:

During the 2010 Comprehensive Plan process, the Future Land Use MAP (FLUM) categories were introduced. Initially, Geiger Key Marina received the Residential Low (RL) designation. In May 1992, in a letter to the Planning Department, the owners (Coon and Boydston) argued that their property in Geiger Key had been operating as Marina/bar for 27 years and requested conforming status for possible future improvements. In October 1992, the Future Land Use Map was amended and Geiger Key Marina received Mixed Use Commercial (MC) designation in the FLUM.

Changes to Boundary Considerations Since 1986:

No recorded boundary changes were found for the Geiger Key Marina.

ANALYSIS AND RATIONALE FOR CHANGE (Pursuant to Section 9.5-511 (d) (5) b):

Changed Projections or Assumptions: None.

Data Errors: None.

New Issues: None.

Recognition of a Need for Additional Detail or Comprehensiveness:

The standards set forth in **Policy 101.4.21** of the Year 2010 Comprehensive Plan stipulate that all properties with the zoning classification Recreational Vehicle (RV) shall have the corresponding FLUM category of Mixed Use/Commercial (MC). Geiger Key Marina has a FLUM category of MC.

In this map amendment, assumption is made that because the FLUM corresponds with the existing use of the property, there is a need to bring the Land Use District Map designation into conformity with the FLUM.

Based on **Chapter 163.3177(6)(a)** of the Florida Statutes, Future Land Use Map illustrates the proposed distribution, location, and extent of various categories of land uses in a future land use plan. The future land use plan is just one of the several elements of Comprehensive Plan. It designates proposed future **general** distribution, location, and extent of the uses of land for different type of uses.

Chapter 380.031 of the Florida Statutes states that the definition of "Development Permit" includes zoning permit and rezoning. Therefore, a zoning change should support and implement the Land Development Regulations. Although, based on **Chapters 163.3201** and **163.3201** of the Florida Statutes, Land development regulations must be in compliance with and implement the adopted local Comprehensive Plan, according to **Chapter 163.3213 2 (b)**, the definition of "Land development regulation" does not include a zoning map, "an action which results in zoning or rezoning of land." Therefore, rezoning a property on the assumption that it should correspond with the Future Land Use Map designation is not a valid argument.

IMPACT AND POLICY ANALYSIS

Comparison of Development Potential for the Current and Proposed Land Uses:

1. Current Land Development Regulations (LDR's)

Section 9.5-209 states that the purpose of the Sparsely Settled Residential District (SS) is to establish areas of low-density residential development where the predominant character is native or open space land.

Uses permitted *as-of-right* include:

- Detached residential dwellings;
- Beekeeping;
- Home occupations;
- Accessory uses; and
- Wastewater nutrient reduction cluster systems that serve less than ten (10) residences.

Uses permitted as *minor conditional uses* include:

- Attached residential dwelling units;
- Public or private community tennis courts and swimming pools;
- Public buildings and uses; and
- Parks and community parks.

Uses permitted as *major conditional uses* include:

- Attached residential dwelling units;
- Marinas;
- Agricultural uses;
- Solid waste facility;
- Communications towers; and
- Stealth wireless communications facilities, as accessory uses.

The Future Land Use Category that corresponds with Sparsely Settled district is **Residential Low (RL)**. The existing FLUM is **Mixed Use/Commercial (MC)**.

2. Potential Land Uses With Proposed Map Amendment

Section 9.5-215 states the purpose of the RV is to establish areas suitable for the development of destination resorts for recreational vehicles. This district contemplates developments that provide on-site recreational, commercial and resort facilities.

Allowable uses *as-of-right* under Section 9.5-244, **Recreational Vehicle District** include:

- Recreational vehicle spaces;
- Commercial retail uses of less than twenty-five hundred (2,500) square feet of floor area;
- Accessory uses, including permanent owner/employee residential dwelling units.

Uses permitted as *minor conditional uses*:

- Hotels providing less than fifty (50) rooms; and
- Parks and community parks.

Uses permitted as a *major conditional uses*:

- Hotels providing fifty (50) or more rooms;
- Marinas; and
- Stealth wireless communications facilities, as accessory uses.

Compatibility With Adjacent Land Uses and Effects on Community Character:

Section 9.5-511 prohibits any map amendments that would negatively impact community character. The community character of the neighborhood is low density residential. Geiger Key Marina is the only mixed-use commercial facility in and around the neighborhood. Furthermore, the proposed map amendment is in conflict with the community character based on the following findings:

Density and Intensity

The subject property is 1.87 acres (81,840 sq. ft.) in size. The maximum number of RV's permitted in RV district is 15 RV spaces per acre. Currently there are 36 RV spaces on this property. In addition, several visits to the site indicated at least two live aboard vessels docked in the marina. Also existing on this property is approximately 3,200 sq. ft. of commercial floor space, 1,800 sq. ft. of residential use in three separate apartments units, and 1,200 sq. ft. area designated for the sewage treatment plant. The commercial use includes a laundry, and a restaurant/bar in a non-conforming structure as to the shoreline setback.

Land Use District	Allocated Density (DU/Acre)	Maximum Net Density (DU/Buildable Area)
Sparsely Settled	0.5	0
Recreational Vehicle District	15.0 Room/RV/Campground spaces per acre	15.0 RV or Campground space per buildable acre

With 36 RV spaces, the site is over density.

If the rezoning is established, the following requirements of the LDR's must be met before any substantial improvement:

- A 20-foot shoreline setback is required along the 731 linear feet of altered shoreline;
- A Class E district buffer yard (at least 30 feet wide);
- 20% of the lot must remain as open space; and
- One parking space per RV pad, 15 parking spots per 1,000 sq. ft. gross floor area (gfa) of restaurant; 10 parking spaces per 1,000 sq. ft. gfa of bar or lounge; 2.0 parking spaces for each single family home; and handicap parking as required by LDR's.

However, Geiger Key Marina is restricted for further development and redevelopment based on the following considerations:

- (1). The site is located under the flight path of the nearby Boca Chica Naval Air Station. Based on **Section 9.5-260(a)(2)a**, privately owned properties adjacent to the Naval Air Station, Boca Chica, also known as NAS Key West, shall be developed in accordance with the map prepared by the U.S. Navy known as figure A or as updated by the U.S. Navy. This map was prepared in conjunction with the United States Navy's Air Installation Compatible Use Zone Study (AICUZ). Geiger Key Marina is within the **C2** zone of the adopted map. Based on **Section 9.5-260(a)(2)a3v**, the C2 zone represents accident potentials and modest noise from the airplane flying in and out of the Naval Air Station. Under the AICUZ C2 zone, Geiger Key Marina shall not be permitted to be developed or redeveloped for new residential (transient or permanent), commercial (resort related), institutional (educational, medical related), and recreational (sports arena, concert hall) uses.

In a letter dated December 14, 2001, in opposition to the zoning change the Commander of the Naval Air Facility in Key West stated that rezoning the Geiger Key Marina to RV will create a potential for upgrading to hotel or resort. This potential according to the letter, is considered "New Development" and not in keeping with the County Land Development Regulations.

The Commanding Officer of the Naval Air Station Key West wrote a second letter on December 14, 2004 indicating that the Navy will withdraw their opposition to the zoning change, if PBP Marina agrees to sign and record a *Declaration of Restrictive Covenant Regarding Use of Land* which would limit the future use of the property, so it would be compatible with operations of the Naval Air Station Key West. The letter stated that the NAS Key West has no objection to the present use and operation of the Marina, nor does it object to the proposed rezoning so long as there is no increase of the existing use.

- (2). On page 7-1 of the Year 2010 Comprehensive Plan Technical Document, it is observed that between 1980 and 1990, housing units classified as mobile homes, trailers and others increased to approximately 33% of the total housing in Monroe County. Recreational vehicle parks in RV zones are considered by the County as a form of commercial transient use (**Planning Director's Policy 99-4**).

Effective May 22, 1998, Land Development Regulations were adopted, as directed by **Policy 101.2.6** of the Comprehensive Plan, which prohibit new transient residential units, including hotel or motel rooms, campground spaces, or spaces for parking recreational vehicles and travel trailers.

Use Compatibility

The Use as a marina existed since 1965 and as an RV park since 1976. However, this use is incompatible with neighboring uses. Changing the land use district to Recreational Vehicle district will allow the incompatibility to continue.

Local Traffic and Parking

The proposed rezoning will have no impact on the existing conditions. Roads are already in place and have been well maintained. Traffic volume is exceedingly low as the Old State Road 4-A terminates a short distance from the Geiger Key Marina. The site plan indicates that the parking standards of the Monroe County Code can be met.

Effects on Natural Resources:

As an existing development on a primarily scarified land, the proposed rezoning will have no negative impact on natural resources.

Effects on Public Facilities: Objective 101.11 of the 2010 Plan requires the County to direct future growth away from environmentally sensitive land and towards established development areas served by existing public facilities. The proposed zoning change supports Objective 101.11 based on the following findings of the 2001 Public Facilities Capacity Assessment Report and the listed programs on stormwater and wastewater:

Traffic Circulation

U.S. Highway No. 1 is required to maintain a level of service (LOS) of C in order to support additional development. The LOS at segment 4 is between B and C, which is adequate to serve existing and proposed uses. This level of service will not be significantly affected by allowing a change in zoning from Sparsely Settled (SS) to Recreational Vehicle District (RV).

Solid Waste

The existing solid waste haul out contract with Waste Management Inc. will provide Monroe County with guaranteed capacity to 2006. In addition to this contract, the 180,000 cubic yard reserve at the County landfill on Cudjoe Key would be sufficient to handle the County's waste stream for an additional four to five years (at current tonnage levels), should the County choose to discontinue haul out as the means of disposal. The combination of existing haul-out contract and the space available at the Cudjoe Key landfill provides the County with sufficient capacity to accommodate all existing and approved development for ten to eleven years. Therefore, the

proposed zoning change is not expected to have a significant effect on solid waste generation or removal.

Potable Water

The Florida Keys Aqueduct Authority's existing consumptive use permit authorizes the withdrawal of sufficient quantities to meet the demand anticipated for 2001. Monroe County's Public Facilities Capacity Assessment indicates that there are over 100 gallons of water available per person per day. The 100 gallons per person per day standard is commonly accepted as appropriate and is reflected in Policy 701.1.1 of the Year 2010 Comprehensive.

Stormwater

No increase in stormwater runoff will result from this zoning change. **Section 9.5-293** of the Land Development Regulations requires that all developments retain stormwater on site following Best Management Practices (BMP's).

Effects on Redevelopment/Infill Potential:

Geiger Key Marina has been in existence for over 35 years and it is the intention of the owners to continue to operate the subject properties as an RV park. According to the applicant, the rezoning is necessary to bring the property into compliance and permit future development and redevelopment of the property in case of damage or destruction of the property after a disaster. Geiger Key Marina as well as the neighboring properties that are located within the **C2** zone of the adopted AICUZ map can not be further developed or redeveloped for new residential (transient or permanent), commercial (resort related), institutional (educational, medical related), and recreational (sports arena, concert hall) uses.

FINDINGS OF FACT

1. **Section 9.5-511(d)(5)b** of the Monroe County Code (MCC) allows the Board of County Commissioners to consider adopting an ordinance to enact map changes under six listed conditions.
2. This map amendment recognizes a need for comprehensiveness in planning (Section 9.5-511(d)(5) b.(v) of the MCC). The application was initiated by the applicant's agent in order to rezone the subject property to a land use district that represents the historic use of the property and corresponds with the FLUM designation.
3. Pre-1986 zoning of the subject property was **Mobile Home Residential District (RU-5P)**. The purpose of RU-5P zone was a district for mobile homes in approved parks where the lots were not individually owned, but occupied as single family dwellings.
4. During the 1986 Comprehensive Plan process, the land use (zoning) district designation of the subject property was changed to **Sparsely Settled Residential District (SS)**.

5. **Section 9.5-209** states that the purpose of the Sparsely Settled Residential District is to establish areas of low-density residential development where the predominant character is native or open space lands. RV parks are non-conforming uses in this land use district.
6. The Future Land Use Map of the Monroe County Year 2010 Comprehensive Plan shows that areas around the Geiger Key Marina that were zoned SS, received a FLUM designation of **Residential Low (RL)**, consistent with their zoning district. However, Geiger Key Marina received **Mixed Use/Commercial (MC)** designation.
7. Based on **Policy 101.4.5** of the Comprehensive Plan, the principal purpose of the Mixed Use/Commercial land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail and office uses may be permitted at intensities which are consistent with the community character and the natural environment. This land use category is also intended to allow the establishment of mixed-use development patterns, where appropriate.
8. The Mixed Use/Commercial (MC) FLUM category corresponds with the requested Recreational Vehicle (RV) land use designation, but not with the Sparsely Settled Residential District (SS).
9. **Section 9.5-215** of MCC states that the purpose of the Recreational Vehicle (RV) land use district is to establish areas suitable for the development of destination resorts or recreational vehicles. This district contemplates developments that provide on-site recreational, commercial, and resort facilities.
10. Based on the documented evidences and the Site Plan submitted by the applicant, there are 36 RV spaces on this property as of November 15, 2001.
11. **Objective 101.11** of Comprehensive Plan states that Monroe County shall ensure that at the time a development permit is issued, adequate public facilities are available to serve the development at the adopted level of service standards concurrent with the impacts of such development.
12. The **2001 Public Facilities Capacity Assessment Report** and the listed programs on stormwater and wastewater indicates that there are no significant concerns regarding impacts on public facilities.
13. **Goal 102** of the Comprehensive Plan states that Monroe County shall direct future growth to lands which are intrinsically most suitable for development and shall encourage conservation and protection of environmentally sensitive lands. The proposed map amendment proposes no additional density or intensity on the site and no expansion of the development into the environmentally sensitive lands.
14. The site is located under the flight path of the nearby Boca Chica Naval Air Station. Based on **Section 9.5-260(a)(2)a**, privately owned properties adjacent to the Naval Air Station, Boca Chica, also known as NAS Key West, shall be developed in accordance with the map prepared by the U.S. Navy known as figure A or as updated by the U.S. Navy. This map was prepared in

conjunction with the United States Navy's Air Installation Compatible Use Zone Study (AICUZ). Geiger Key Marina is within the C2 zone of the adopted map. Based on **Section 9.5-260(a)(2)a3v**, the C2 zone represents accident potentials and modest noise from the airplanes flying in and out of the Naval Air Station (NAS). Under the AICUZ C2 zone, Geiger Key Marina shall not be permitted to be developed or redeveloped for new residential (transient or permanent), commercial (resort related), institutional (educational, medical related), and recreational (sports arena, concert hall) uses.

15. Based on a letter from the Commander of the Naval Air Facility in Key West of December 14, 2004, the Navy will withdraw their opposition, as detailed in their letter of December 14, 2001, to the zoning change, if PBP marina agrees to sign and record a *Declaration of Restrictive Covenant Regarding Use of Land* which would limit the future use of the property, so it would be compatible with operations of the Naval Air Station Key West.
16. Based on **Chapter 380.031** of the Florida Statutes, the definition of "Development Permit" includes zoning permit and rezoning. Therefore, a zoning change should support and implement the Land Development Regulations.
17. Based on **Chapters 163.3201 and 163.3201** of the Florida Statutes, Land development regulations shall be in compliance with and implement the adopted local Comprehensive Plan.
18. Based on **Chapter 163.3213 2 (b)** "Land development regulation" means an ordinance enacted by a local governing body for the regulation of any aspect of development, including a subdivision, building construction, landscaping, tree protection, or sign regulation or any other regulation concerning the development of land. This term shall include a general zoning code, **but shall not include a zoning map, an action which results in zoning or rezoning of land....**
19. Based on **Chapter 163.3177(6)(a)** of the Florida Statutes, Future Land Use Map illustrate the proposed distribution, location, and extent of various categories of land use in a future land use plan. The Future land use plan is just one of the several elements of comprehensive plan. It designates proposed future **general** distribution, location, and extent of the uses of land for different type of uses.
20. **Section 9.5-511** prohibits any map amendments that would negatively impact community character.
21. The community character of the neighborhood is low density residential. Geiger Key Marina is the only mixed use/commercial facility in and around the neighborhood.

CONCLUSIONS OF LAW

1. The Future Land Use Map is just one of the elements of the Year 2010 Comprehensive Plan which shows only the proposed future **general** distribution, location, and extent of the uses of land for different type of uses.

2. Rezoning of a property on the basis of corresponding with the Future Land Use Map of the Comprehensive Plan is not a valid assumption.
3. Determination of granting a development permit (including rezoning) is based on the consistency of the proposal with applicable Land Development Regulations and the overall intent of the Comprehensive Plan.
4. The applicant has not sufficiently proven that the requested map amendment would be consistent with the overall intent of the Year 2010 Comprehensive Plan.
5. The proposed map amendment does not meet the requirements outlined in Section 9.5-511 of the Land Development Regulations and will negatively impact and alter the character of the surrounding community.
6. The site is located in the C2 zone of the adopted AICUZ map which represents accident potentials and modest noise from the air traffic of the Naval Air Station in Boca Chica. Therefore, granting the requested rezoning could "potentially" put public's health and safety at risk.
7. Based on the Finding of Facts presented, neither the proposed, nor the existing land use designations are appropriate for this property. In the process of determining more appropriate land use designations for the site, the Findings of Fact and Conclusions of Law shall be used to guide the Staff.

RECOMMENDATION

Based on the Findings of Fact and Conclusions of Law, the staff recommends **DENIAL** to the Board of County Commissioners of the proposed Official Land Use District Map amendment from Sparsely Settled (SS) to Recreational Vehicle (RV) District.



DEPARTMENT OF THE NAVY

NAVAL AIR STATION
PO BOX 9001
KEY WEST FL 33040-9001

11011
Ser N01SJA/256
December 14, 2004

Ralf G. Brookes, Esq.
Attorney for Mr. Bobby Mongelli
1217 E Cape Coral Parkway #107
Cape Coral, FL 33904

Dear Mr. Brookes:

This letter is in response to your letter of January 03, 2003 and subsequent verbal requests for a statement of "non-objection" by Naval Air Station (NAS) Key West relating to your current use of the property located at Geiger Key Marina. It is understood that you are presently filing a petition/application seeking approval from Monroe County to make repairs necessary in order to continue your current use of the property located at Geiger Key Marina in a safe manner. It is also understood that certain zoning restrictions are presently in place that may prevent you from making repairs to your property in the event that the property is damaged from a natural disaster, and that part of your petition/application seeks the ability to rezone for a conforming use, under such circumstances. Finally, it is understood that you wish to include a statement of "non-objection" from NAS Key West as part of your petition/application.

All zoning matters, including the approval or denial of petitions/applications to build and/or repair property, rest squarely with Monroe County and the State of Florida. Naval Air Station Key West makes no assertion of any authority relating to the approval or denial of such matters. However, zoning issues in and around Key West are of vital importance to the operations of this air station and garner great interest within this command and the United States Navy. The present Air Installation Compatible Use Zone (AICUZ) for NAS Key West specifically identifies the property in question, and provides the potential noise and accident data relating to the area.

You have stated that the Geiger Key Marina consists of a restaurant, marina and temporary lodging, and has been in operation in such capacity since the early 1960's. You have also made clear that you are fully aware of, and understand, the present AICUZ data relating to this property. It is understood that you are not seeking to change the current use or size of the operations at Geiger Key Marina, but rather you are simply seeking approval to make needed repairs to maintain and update the property. In furtherance of this understanding you have volunteered to sign and record your *Declaration and Restrictive Covenant Regarding Use of Land* proposal which would limit the future use of the property, so that it would be compatible with operations of Naval Air Station Key West.

Based upon the above representations, NAS Key West has no objection to the present use and operation of Geiger Key Marina, nor does NAS Key West object to proposed rezoning to bring the current Geiger Key Marina uses into conforming use status so long as it is conducted with an understanding of the operating AICUZ with no increase of the existing use as set forth in paragraph (3) of the proposed restriction. Accordingly, NAS Key West does not object to Mr. Mongelli's petition to make the repairs necessary to maintain current operations at the Marina and to ensure proper safety measures have been implemented for the safety of the patrons on the property.


J. K. SCHOLL

Commanding Officer
Naval Air Station Key West

Enclosures: 1. Letter from Ralf Brookes, Esq. to NAS Key West dtd January 3, 2003

cc. George Spehar
Monroe County Commissioner
500 Whitehead Street
Key West, FL 33040

Charles McCoy
Monroe County Commissioner
530 Whitehead Street
Key West, FL 33040

Murray Nelson
Monroe County Commissioner
99198 Overseas Hwy
Key Largo, FL 33037

Tim McGarry
Monroe County Growth Mgmt. Ofc.
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Marathon, FL 33050

George Neugent
Monroe County Commissioner
25 Ship's Way
Big Pine, FL 33043

David Rice
Monroe County Commissioner
9000 Overseas Hwy
Marathon, FL 33040

Monroe County Attorney
502 Whitehead Street
Key West, FL 33040

Marlene Conway
Monroe County Growth Mgmt. Ofc.
2798 Overseas Hwy
Suite 400
Marathon, FL 33050



January 3, 2003

Captain Larry Cotton
United States Department of the Navy
Naval Air Facility
P.O. Box 9001
Key West Florida 33040-9001

Ms. Jan Hill
Southern Division, Naval Facilities Engineering Command
P.O. Box 190010
2155 Eagle Drive
North Charleston, South Carolina 29410-0010

Dear Captain Cotton and Ms. Hill,

I represent Geiger Key Marina. Over time, existing structures at the Marina have fallen into disrepair. The owner of Geiger Key Marina would like to make needed repairs, (for example, repair floors, decking and updated fire protection, etc...). The owner intends to limit current and future uses at the Marina to those that will be compatible with nearby Boca Chica Naval Air Station. As the local government, Monroe County is empowered and authorized to approve zoning, land uses and building permits at Geiger Key Marina.

To resolve any potential conflicts in use before they arise in a manner that is mutually acceptable, Geiger Key Marina will agree to sign and record with Monroe County a **Declaration and Restrictive Covenant** containing a specific list of uses that are compatible with Boca Chica Naval Air Station. Please review this specific list of existing uses and respond to me with any changes or proposed revisions as soon as possible.

Thank you for your assistance,

A handwritten signature in black ink, appearing to read "Ralf", followed by a long horizontal line.

Ralf Brookes, Esq.

DECLARATION AND RESTRICTIVE COVENANT REGARDING USE OF LAND

This Declaration of Restrictive Covenant (hereinafter referred to as "Declaration"), is executed this ____ day of _____, 200_ by GEIGER KEY MARINA, INC., its corporate successors and assigns ("Owner"), and Monroe County, a political subdivision of the State of Florida ("County") *

*[*and the United States Navy, if Navy prefers to be signatory]*

RECITALS

WHEREAS, Monroe County is empowered and authorized to approve uses of the subject land; and,

WHEREAS, Owner is the owner in fee simple of the real property described in EXHIBIT "A" operates current existing use(s) known as Geiger Key Marina and intends to maintain the current existing land uses as set forth in this Declaration; and

WHEREAS, Owner intends to limit current and future uses of the land to land uses at Geiger Key Marina that will be compatible with Boca Chica Naval Air Station and

WHEREAS, the parties intend to execute and record this Declaration to run with the land to ensure present and future compliance with this Declaration;

NOW, THEREFORE, for the benefit of the U.S. Navy and in consideration of the County's grant of building permits and approvals and other good and valuable consideration, the parties do covenant and agree as follows:

1. Recitals - The recitals contained above are true and correct and incorporated herein by reference.

2. Purpose of this Declaration - The general purpose of this Declaration is to ensure that uses on the subject parcel will be limited to uses that the U.S. Navy and Monroe County and the Owner agrees are compatible with Boca Chica Air Station.

3. Restrictions - The Owner hereby covenants and agrees and acknowledges that Geiger Key Marina shall be only used for the following uses:

- a. 36 recreational vehicle spaces
- b. 3584 square feet of commercial floor area
- c. 732 linear feet of seawall providing space for up to 15 boats
- d. 4 employee residential units of 2 bedrooms with kitchen.

All other uses allowable under the Monroe County land development regulations and comprehensive plan at Geiger Key Marina, including any density, intensity or dwelling unit credits available under ROGO be transferred off-site pursuant to any Monroe County requirements for applicable at the time of proposed transfer.

4. Effectiveness of Declaration - Within fourteen (14) days after the parties have approved and executed this Declaration, the Owner shall record this Declaration with the Clerk of the Circuit Court, Monroe County, Florida. The terms set forth in this Declaration shall be effective on the date of recording.

5. Enforcement - It is expressly understood and agreed that the terms of this Declaration shall be binding upon and shall inure to all successors in interest to the parties to the Declaration, and shall run with the land. The parties to this Declaration may institute any proceedings at law or equity against any person violating or threatening to violate the same or against any person allowing a violation to take place. Failure by the Owner, or the County, or other such party to continue to object to the violation or to enforce any term of this Declaration shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to another occurring prior to or subsequent thereto.

6. Modifications - The Owner and County hereby expressly reserve the right to amend, rescind or modify any of the restrictions, conditions, covenants, agreements or provisions contained herein as to all or any part of by mutual written agreement between Owner (or their heirs, successors and assigns), and Monroe County. **The uses allowed under this restrictive covenant can be reviewed and amended only by agreement of all the parties and can be amended, rescinded or modified at any time only by agreement of all the parties.** All instruments executed for the purposes of annulling, waiving, amending, rescinding, or modifying any of the covenants, agreements provisions, and restrictions of this declaration shall be recorded in the Public Records of Monroe County, Florida. No such changes or amendments of any kind shall be made except as herein provided. No party shall have the right to unilaterally make any such change or agreement.

7. Duration - The declaration will continue in effect for a period of thirty (30) years or until the following changed circumstances, whichever is sooner:

- a. The noise, safety sensitive or restrictive areas identified in the AICUZ map are officially changed by the United States, Department of Defense to exclude or remove Geiger Key Marina from an AICUZ : designation that precludes new development as defined in the AICUZ or Monroe County Land Development Regulations; or
- b. The Monroe County land development regulations and land use district map designation, RV (Recreational Vehicle), are officially changed to allow for additional development on Geiger Key.

8. Entire Agreement - This instrument represents the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this instrument may be added to,

modified, superseded or otherwise altered except by written agreement executed by the parties hereto

OWNER, _____
Typed or Printed Name
Telephone Contact #:

NOTARY: Sworn to and subscribed before me this _____ day of _____, 2002, by
_____ (owner's name and title).

By: _____
Notary Public

Personally known _____ or produced Identification _____, Type of
Identification Produced _____.

IN WITNESS WHEREOF, The Owner has executed this Declaration this _____ day of
_____ 2002.

WITNESSES

Typed or Printed Name
Telephone Contact #:

Typed or Printed Name
Telephone Contact #:

MONROE COUNTY _____
Typed or Printed Name

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY
County Attorney

IN THE CIRCUIT COURT FOR THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

PBP MARINA, INC.

Petitioner,

v.

CASE NO: CAK-02-561

MONROE COUNTY,

Respondent

SETTLEMENT AGREEMENT

Comes now the parties, Petitioner PBP Marina, Inc. (hereinafter "PBP") and Respondent Monroe County (hereinafter the "County"), by and through the undersigned counsel, hereby agree to settle the above-captioned matters as follows:

WHEREAS, PBP has sued the County over the Board of County Commissioner's April 17, 2002 denial of PBP's request to change its current zoning designation from sparsely settled ("SS") to recreational vehicle ("RV"); and

WHEREAS, the County's denial of PBP's zoning change request was based, in part, upon the opposition of the U.S. Navy (Tr. 7, LL 17-24; Tr. 8, LL 5-9); and

WHEREAS, the Navy's opposition to PBP's zoning change request was based on concern regarding potential development that was incompatible with the Navy's Air Installations Compatible Use Zoning study ("AICUZ"), which is incorporated into the Monroe County Land Development Regulations as § 9.5-260; and

WHEREAS, the Commanding Officer of Naval Air Station (NAS) Key West indicated in correspondence dated December 14, 2004 that the Navy has resolved its reservations over PBP's zoning change request in light of PBP's agreement to place certain restrictions on the use and development of the property in question; and


WHEREAS, as a result of the recent change in the Navy's position, the Board of County Commissioners voted on January 19, 2005, to rehear PBP's application for a zoning change; and

WHEREAS, in the interests of judicial economy and conserving the resources of the litigants and in order to buy peace in this matter, the parties have agreed to resolve their differences as set forth below:


NOW THEREFORE, in consideration of the mutual promises and undertakings contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The parties shall ask the Court to hold this matter in abeyance so the Board of County Commissioners may schedule and hold a quasi judicial hearing on the merits of PBP's application for a zoning request of the property commonly known as Geiger Key Marina.
2. The County agrees to schedule a duly advertised, public hearing on PBP's request for zoning change at the BOCC meeting scheduled for April 20, 2005, or as soon thereafter as practical.
3. PBP will be responsible for paying the costs incurred for making all announcements and notifications of the hearing which are required by law.
4. This matter shall be held in abeyance until completion of the public hearing on PBP's zoning change request subject to the following contingencies:
 - a. If the BOCC approves PBP's zoning change request, PBP shall file a notice of voluntary dismissal with prejudice within the 30 day period following the completion of all appeals of and/or challenges to the BOCC's decision, or in the absence of any appeals or challenges, the expiration of the appropriate time period for filing an appeal and/or challenge; or
 - b. If the BOCC denies PBP's zoning change request, PBP shall have the right to file an Amended Petition within 30 days of the County's final administrative action, seeking redress for any complaint that PBP might have as a result of the County's denial.
5. The Court shall retain jurisdiction over the parties and this litigation to ensure compliance with this agreement.
6. Each party agrees to bear its own attorney's fees and costs, which each occurred to date as a result of this litigation.
7. Each party agrees to waive each and every claim that it raised or could have raised in this litigation, except as specifically set forth herein.

8. Upon execution by both parties, this agreement shall be submitted to the Court for approval.
9. By entering into this Settlement Agreement, the parties do not acknowledge the merits or lack of merits of these proceedings. Rather, the parties have entered into this agreement for the purpose of avoiding further expense and delay inherent in litigation of this nature.

 3/14/05

Ralf G. Brookes date
FBN 0778362
Attorney for Petitioners
1217 E Cape Coral Parkway #107
Cape Coral, FL 33904
(239) 910-5464
(239) 945-8480 fax
ralf@ralfbrookesattorney.com

 3/16/05

Robert B. Shillinger date
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IN THE CIRCUIT COURT FOR THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

PBP MARINA, INC.
Petitioner,

v.

CASE NO: CAK-02-561

MONROE COUNTY,
Respondent

ORDER APPROVING SETTLEMENT AGREEMENT

This matter, having come before the Court on the Settlement Agreement of the Parties, and the Court, having reviewed the Settlement Agreement and being otherwise fully advised of its premises, hereby approves of the settlement agreement, and it is hereby:

ORDERED and ADJUDGED that this matter shall be held in abeyance until such time as set forth in paragraph 4 of the Settlement Agreement which is incorporated by reference herein; and it further

ORDERED that this Court shall retain jurisdiction over this matter to ensure compliance with the Settlement Agreement.

DONE and ORDERED this 24th day of March, 2005, in chambers, Key West, Florida.

MARK H JONES

Circuit Judge

Cc: Ralf Brookes, Esq.
Robert Shillinger, Esq.

RECEIVED

MAR 29 2005

MONROE COUNTY ATTORNEY

Planning Commission Recommendation

RESOLUTION NO. P02-02

A RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION RECOMMENDING **DENIAL** TO THE BOARD OF COUNTY COMMISSIONERS OF THE REQUEST BY PBP MARINA INC. TO AMEND THE LAND USE DISTRICT (ZONING) MAP FROM SPARSELY SETTLED RESIDENTIAL DISTRICT (SS) TO RECREATIONAL VEHICLE (RV) FOR THE PROPERTY DESCRIBED AS PART OF GOVERNMENT LOT 6, SECTION 26, TOWNSHIP 67 SOUTH, AND RANGE 26 EAST, ALSO KNOWN AS GEIGER KEY MARINA AND RV PARK, GEIGER KEY, MONROE COUNTY, FLORIDA, AT APPROXIMATELY MILE MARKER 10.7.

WHEREAS, the Monroe County Planning Commission, during a regular meeting held on January 9, 2002, conducted a review and consideration of the request filed by PBP Marina Inc. to amend the zoning map from Sparsely Settled Residential District (SS) to Recreational Vehicle (RV) land use district for the Geiger Key Marina. The subject property is located at 5 Geiger Road, in Section 26, Township 67 South, and Range 26 East, Monroe County, Florida, having the Real Estate identification number 00122160.000000; and

WHEREAS, the Planning Commission examined the following information:

1. The application from PBP Marina, Inc. to change the Land Use District (zoning) map from Sparsely Settled Residential District (SS) to Recreational Vehicle (RV); and
2. Sworn testimony from applicant's attorney and agent; and
3. Sworn testimony of Rebecca Jetton, Community Program Administrator of DCA; and
4. A folder submitted by the applicant's agent containing petitions by some of the residents of Geiger Key, Rockland Key, and Big Coppit Key in support of the application, as well as, notices to the residents of Geiger Key Marina and RV Park; and
5. The staff report prepared by Aref Joulani, Senior Planner and Dianna Stevenson, Biologist, dated December 6, 2001; and
6. Sworn testimony of the Growth Management Staff; and
7. Advice from John Wolfe, the Planning Commission Council; and
8. Comments from local residents and concerned citizens; and
9. Letter of opposition to the requested rezoning from the Commander of the Naval Air Facility in Key West; and

WHEREAS, the Planning Commission made the following Findings of Fact:

1. **Section 9.5-511(d)(5)b** of the Monroe County Code (MCC) allows the Board of County Commissioners to consider adopting an ordinance to enact map changes under six listed conditions.
2. This map amendment recognizes a need for comprehensiveness in planning (Section 9.5-511(d)(5) b.(v) of the MCC). The application was initiated by the applicant's agent in order to rezone the subject property to a land use district that represents the historic use of the property and corresponds with the Future Land Use Map designation.
3. Pre-1986 zoning of the subject property was **Mobile Home Residential District (RU-5P)**. The purpose of RU-5P zone was a district for mobile homes in approved parks where the lots were not individually owned, but occupied as single family dwellings.
4. During the 1986 Comprehensive Plan process, the land use (zoning) district of the subject property was changed to **Sparsely Settled Residential District (SS)**.
5. **Section 9.5-209** of MCC states that the purpose of the Sparsely Settled Residential District is to establish areas of low-density residential development where the predominant character is native or open space lands. RV parks are non-conforming uses in this land use district.
6. The Future Land Use Map of the Monroe County Year 2010 Comprehensive Plan (Comp Plan) shows that areas around the Geiger Key Marina that were zoned SS, received a Future Land Use Map designation of **Residential Low (RL)**, consistent with their zoning district. However, Geiger Key Marina received **Mixed Use/Commercial (MC)** designation.
7. Based on **Policy 101.4.5** of the Comp Plan the principal purpose of the Mixed Use/Commercial land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail and office uses may be permitted at intensities which are consistent with the community character and the natural environment. This land use category is also intended to allow the establishment of mixed-use development patterns, where appropriate.
8. The Mixed Use/Commercial (MC) future land use category corresponds with the requested Recreational Vehicle (RV) land use designation, but not with the Sparsely Settled Residential District (SS).
9. **Section 9.5-215** of MCC states that the purpose of the Recreational Vehicle (RV) land use district is to establish areas suitable for the development of destination resorts or recreational vehicles. This district contemplates developments that provide on-site recreational, commercial, and resort facilities.
10. Based on the documented evidences and the Site Plan submitted by the applicant, there are 36 RV spaces on this property as of November 15, 2001.

11. **Objective 101.11** of Comp Plan states that Monroe County shall ensure that at the time a development permit is issued, adequate public facilities are available to serve the development at the adopted level of service standards concurrent with the impacts of such development.
12. The **2001 Public Facilities Capacity Assessment Report** and the listed programs on stormwater and wastewater indicates that there are no significant concerns regarding impacts on public facilities.
13. **Goal 102** of the Comp Plan states that Monroe County shall direct future growth to lands which are intrinsically most suitable for development and shall encourage conservation and protection of environmentally sensitive lands. The proposed map amendment proposes no additional density or intensity on the site and no expansion of the development into the environmentally sensitive lands.
14. The site is located under the flight path of the nearby Boca Chica Naval Air Station. Based on **Section 9.5-252(C)(3)h**, privately owned properties adjacent to the Naval Air Station, Boca Chica, also known as NAS Key West, shall be developed in accordance with the map prepared by the U.S. Navy known as figure A or as updated by the U.S. Navy. This map was prepared in conjunction with the United States Navy's Air Installation Compatible Use Zone Study (AICUZ). Geiger Key Marina is within the **C2** zone of the adopted map. Based on **Section 9.5-252(C)(3)h(iii)4**, the C2 zone represents accident potentials and modest noise from the airplanes flying in and out of the Naval Air Station (NAS). Under the AICUZ C2 zone, Geiger Key Marina shall not be permitted to be developed or redeveloped for new residential (transient or permanent), commercial (resort related), institutional (educational, medical related), and recreational (sports arena, concert hall) uses.
15. Based on a letter in opposition to the zoning change dated December 14, 2001 from the Commander of the Naval Air Facility in Key West, rezoning the Geiger Key Marina to RV will create a potential for upgrading to hotel or resort. This potential according to the letter, is considered "New Development" and not in keeping with the County Land Development Regulations.
16. Based on **Chapter 380.031** of the Florida Statutes, the definition of "Development Permit" includes zoning permit and rezoning. Therefore, a zoning change should support and implement the Land Development Regulations.
17. Based on **Chapters 163.3201** and **163.3201** of the Florida Statutes, Land development regulations shall be in compliance with and implement the adopted local Comprehensive Plan.
18. Based on **Chapter 163.3213 2 (b)** "Land development regulation" means an ordinance enacted by a local governing body for the regulation of any aspect of development, including a subdivision, building construction, landscaping, tree protection, or sign regulation or any other regulation concerning the development of land. This term shall include a general zoning code, **but shall not include a zoning map, an action which results in zoning or rezoning of land....**
19. Based on **Chapter 163.3177(6)(a)** of the Florida Statutes, Future Land Use Maps illustrate the

proposed distribution, location, and extent of various categories of land use in a future land use plan. The Future land use plan is just one of the several elements of comprehensive plan. It designates proposed future **general** distribution, location, and extent of the uses of land for different type of uses.

20. **Section 9.5-511** prohibits any map amendments that would negatively impact community character.
21. The community character of the neighborhood is low density residential. Geiger Key Marina is the only mixed use/commercial facility in and around the neighborhood; and

WHEREAS, the Planning Commission made the following **Conclusions of Law**:

1. The Future Land Use Map is just one of the elements of the Year 2010 Comprehensive Plan which shows only the proposed future **general** distribution, location, and extent of the uses of land for different type of uses.
2. Rezoning of a property on the basis of corresponding with the Future Land Use Map of the Comprehensive Plan is not warranted.
3. The Monroe County Planning Commission determination of granting a development permit (including rezoning) is based on the consistency of the proposal with applicable Land Development Regulations and the overall intent of the Plan.
4. The applicant has not sufficiently proven that the requested map amendment would be consistent with the overall intent of the Year 2010 Comprehensive Plan.
5. The proposed map amendment does not meet the requirements outlined in Section 9.5-511 of the Land Development Regulations and will negatively impact and alter the character of the surrounding community.
6. The site is located in the **C2** zone of the adopted AICUZ map which represents accident potentials and modest noise from the air traffic of the Naval Air Station in Boca Chica. Therefore, granting the requested rezoning could potentially put public's health and safety at risk.

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, to recommend **DENIAL** to the Monroe County Board of County Commissioners of the request filed by PBP Marina Inc. to amend the zoning map from the Sparsely Settled (SS) land use district to the Recreational Vehicle (RV) land use district for a property located at 5 Geiger Road, in Section 26, Township 67 South, and Range 26 East, Monroe County, Florida, having the Real Estate identification number 00122160.000000.

PASSED AND ADOPTED By the Planning Commission of Monroe County, Florida, at a regular meeting held on the 9th day of January 2002.

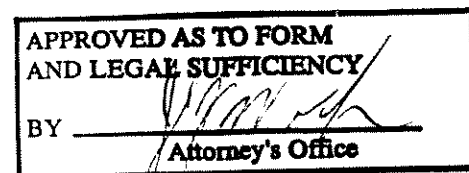
Chair David C. Ritz
Vice Chair Denise Werling
Commissioner P. Morgan Hill
Commissioner Jerry Coleman
Commissioner Alicia Putney

YES
YES
NO
YES
YES

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

BY D/C Ritz
David C. Ritz, Chair

Signed this 13th day of March, 2002



Development Review Committee Resolution

RESOLUTION NO. D27-01

A RESOLUTION BY THE MONROE COUNTY DEVELOPMENT REVIEW COMMITTEE RECOMMENDING APPROVAL TO THE PLANNING COMMISSION OF THE REQUEST BY PBP MARINA INC. TO AMEND THE LAND USE DISTRICT (ZONING) MAP FROM SPARSELY SETTELED (SS) TO RECREATIONAL VEHICLE (RV) FOR THE PROPERTY DESCRIBED AS PART OF GOVERNMENT LOT 6, SECTION 26, TOWNSHIP 67 SOUTH, AND RANGE 26 EAST, ALSO KNOWN AS 5 GEIGER ROAD, GEIGER KEY, MILE MARKER 10.7, MONROE COUNTY, FLORIDA.

WHEREAS, the Monroe County Development Review Committee, during a regular meeting held on December 6, 2001, conducted a review and consideration of the request filed by PBP Marina Inc. to amend the zoning map from Sparsely Settled Residential District (SS) to Recreational Vehicle (RV) land use district for the Geiger Key Marina. The subject property is located at 5 Geiger Road, in Section 26, Township 67 South, and Range 26 East, Monroe County, Florida, having the Real Estate identification number 00122160.000000; and

WHEREAS, the Development Review Committee examined the following information:

1. The application from PBP Marina, Inc. to change the Land Use District (zoning) map from Sparsely Settled Residential District (SS) to Recreational Vehicle (RV); and
2. The staff report prepared by Aref Joulani, Senior Planner and Dianna Stevenson, Biologist, dated December 6, 2001; and

WHEREAS, the Development Review Committee made the following Findings of Fact:

1. Section 9.5-511(d)(5) b of the Monroe County Land Development Regulations allows the Board of County Commissioners to consider adopting an ordinance to enact map changes under six listed conditions.
2. This map amendment recognizes a need for comprehensiveness in planning (Section 9.5-511(d)(5)b.(v) of the Monroe County Code). The application was initiated by the applicant's agent in order to rezone the subject property to a land use district that represents the historic use of the property and corresponds with the Future Land Use Map designation.
3. Pre-1986 zoning of the subject properties was Mobile Home Residential District (RU-5P).
4. During the 1986 Comprehensive Plan process, the land use (zoning) district of the subject properties was changed to Sparsely Settled Residential District (SS).
5. Section 9.5-209 of the Monroe County Code states that the purpose of the Sparsely Settled

district is to establish areas of low-density residential development where the predominant character is native or open space land. This designation overlooked the historic use of the property as a marina and RV park.

6. The Future Land Use Map of the Monroe County Year 2010 Comprehensive shows that areas around the Geiger Key Marina that were zoned Sparsely Settled Residential District, received a Future Land Use Map designation of **Residential Low (RL)**, consistent with their land use. However, the subject property received **Mixed Use/Commercial (MC)** designation.
7. Based on Policy 101.4.5 of the Year 2010 Comprehensive Plan the principal purpose of the Mixed Use/Commercial land use category is to provide for the establishment of commercial zoning districts where various types of commercial retail and office may be permitted at intensities which are consistent with the community character and the natural environment. This land use category is also intended to allow for the establishment of mixed-use development patterns, where appropriate.
8. The Mixed Use/Commercial (MC) Future Land Use category corresponds with the Recreational Vehicle (RV) land use district.
9. **Section 9.5-215** states that the purpose of the Recreational Vehicle (RV) land use district is to establish areas suitable for the development of destination resorts or recreational vehicles. This district contemplates developments that provide on-site recreational, commercial, and resort facilities.
10. **Section 9.5-244** indicates that the Recreational Vehicle (RV) land use district permits recreational vehicles as-of-right.
11. **Section 9.5-511** prohibits any map amendments that would negatively impact community character.
12. **Objective 101.11** states that Monroe County shall ensure that at the time a development permit is issued, adequate public facilities are available to serve the development at the adopted level of service standards concurrent with the impacts of such development.
13. The **2001 Public Facilities Capacity Assessment Report** and the listed programs on stormwater and wastewater indicates that there are no significant concerns regarding impacts on public facilities.
14. **Goal 102** of the Monroe County Year 2010 Plan states that Monroe County shall direct future growth to lands which are intrinsically most suitable for development and shall encourage conservation and protection of environmentally sensitive lands.
15. The proposed map amendment supports **Goal 102** as it proposes no additional density or intensity on the site. There will be no additional impact on environmentally sensitive lands.

16. The site is located under the flight path of the Boca Chica Naval Air Station. The property is within the C2 zone in the adopted **United States Navy's Air Installation Compatible Use Study (AICUZ)**. The C2 zone represents accident potentials and modest noise from the airplane flying in and out of the Naval Air Station (NAS). Under the AICUZ C2 zone, Geiger Key Marina shall not be permitted to be further developed for new residential (transient or permanent); commercial (resort related); institutional (educational, medical related); and recreational (sports arena, concert Hall) uses.
17. Based on the documented evidences and the Site Plan submitted by the applicant, there are 36 RV spaces on this property as of November 15, 2001; and

WHEREAS, the Development Review Committee made the following **Conclusions of Law**:

1. The proposed map amendment meets the requirements outlined in Section 9.5-511(d)(5)b.(v) and Section 9.5-215 of the Monroe County Land Development Regulations and will not negatively impact or alter the character of the subject property or the neighborhood.
2. The proposed map amendment supports Objective 101.11 of the Monroe County Year 2010 Comprehensive Plan based on the findings of the 2001 Public Facilities Capacity Assessment Report and the listed programs on stormwater and wastewater. There are no significant concerns regarding impacts on public facilities.
3. There are no additional impacts on environmentally sensitive lands as a result of the proposed map amendment.

NOW THEREFORE, BE IT RESOLVED BY THE DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY, FLORIDA, to recommend **APPROVAL** to the Monroe County Planning Commission of the request filed by PBP Marina Inc. to amend the zoning map from Sparsely Settled Residential District (SS) to Recreational Vehicle (RV) land use district for Geiger Key Marina and RV Park located at 5 Geiger Road, in Section 26, Township 67 South, and Range 26 East, Monroe County, Florida, having the Real Estate identification number 00122160.000000.

PASSED AND ADOPTED by the Development Review Committee of Monroe County, Florida, at a regular meeting held on the 6th of December 2001.

Fred Gross, DRC Chair	<u>YES</u>
Ralph Gouldy, Senior Administrator, Environmental Resources	<u>YES</u>
Aref Joulani, Senior Planner	<u>YES</u>
Department of Public Works (by FAX)	<u>YES</u>
Department of Engineering (by FAX)	<u>YES</u>
Department of Health (by FAX)	<u>YES</u>

DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY

BY


Fred Gross, DRC Chair

Signed this 6 day of FEBRUARY, 2002.